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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/025,794

12/26/2001

Jeff Scott Eder

5962

53787

7590

11/14/2007

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2020 MALTBY ROAD  
SUITE 7362  
BOTHELL, WA 98021

EXAMINER

WEISBERGER, RICHARD C

ART UNIT

PAPER NUMBER

3693

MAIL DATE

DELIVERY MODE

11/14/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/025,794

Applicant(s)

EDER, JEFF SCOTT

Examiner

Richard C. Weisberger

Art Unit

3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 35-68 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 35-68 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____                                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____   | 6) <input type="checkbox"/> Other: ____                           |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 48-68 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 48-68 directed to software and lack any structural components.

### ***Claim Rejections - 35 USC § 112***

Claims 35-68 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

They newly drafted claims in is indefinite in scope. The limitations of obtaining a model that identifies value and risk for each of the one or more elements of value, external factors and risks is vague and indefinite. As just one example, what does it mean to identify risk of an element of risk? Moreover, the scope of elements of external factors is indefinite in scope. What is the scope of external factors? External to what? Moreover, what is a external factor of for example, a plurality if organization related process specifications? What is a risk of a plurality if process feature data?

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Also, the step of identifying an impact of each process feature on one or more expected process outputs is vague as to which process it is referring to.

Also, the step of mapping the expected process outputs is vague and indefinite as to what process outputs the limitation is referring to.

Also the computational model lacks antecedent basis.

Also, in the claims the portfolio effect is vague and indefinite. What is the scope of a portfolio effect?

Claim 36 continues to be of improper Markush format.

In the claims, it is not clear how mapping the expected process outputs to the matrices of value and risk is accomplished.

In the claims it is not clear what is being simulated.

In the claims it is not clear how risk is measured and/or determined.

In the claims it is not clear how value is measured or determined.

In the claims "all the different options" is indefinite in scope. How does one determine the options?

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In the claims "automated learning" is vague and indefinite. Also, how is automated learning used to develop the value and risk components.

In the claim "operating factor data" is vague and indefinite. What is the scope of operating factor data?

In the claim it is not clear how one uses simulation data to identify the impact of one or more process outputs on a matrix.

In the claims it is not clear how a real option segment of value defined the risk matrix.

In claim 45 and elsewhere, the segments of value are of improper Markush format in the at the elements are not art recognized classes. (e.g., see knowledge, processes, vendor relationships).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard C. Weisberger whose telephone number is 571 272 6753. The examiner can normally be reached from the hours 6:30 AM to 10:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Krammer can be reached on 571 272 6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Richard C. Weisberger  
Primary Examiner  
Art Unit 3693